

DEC 14 2007

PROGRAMMATIC REVIEW REPORT FOR ON-SITE EVALUATION OF THE TROY SITE SPECIFIC COOPERATIVE AGREEMENT WITH THE MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY

1. Introduction, Background and Methodology

Recipient information: Montana Department of Environmental Quality (DEQ) is a state agency that supports USEPA's mission of protecting the environment. As such, DEQ is eligible to receive Cooperative Agreement funding.

Background: This Site Specific Cooperative Agreement No. V-97801901 provides funding for the DEQ Superfund Program to support a MDEQ lead Superfund Field Investigation @ the Libby Asbestos OU07 (Troy) NPL site. Remedial Project Manager (RPM) responsibilities for Libby Troy are assigned to an RPM in Denver, CO not the Montana Office in Helena, MT even though the Project Officer (P.O.) and grant specialist responsibilities are based in Helena. Project Officer responsibilities and Grant Specialist responsibilities will be reassigned to the Denver office since the Montana Office P.O. is receiving insufficient technical information from the Libby Site Team to be an effective P.O. As part of the transfer, current Project Officer is conducting a post award evaluation prior to transferring P.O. responsibilities to ensure Cooperative Agreement is in order. Once on site evaluation is complete and is recorded in the system, the grants specialist will amend the assistance agreement to change both the current P.O. and grants specialist on the agreement. It is important that this is done as soon as possible since DEQ submitted a request to amend the agreement by \$500,000 on December 7, 2007.

Review Methodology:

This review was conducted by the Project Officer on site at DEQ's offices on December 14, 2007. The on-site protocol from Appendix 9 of EPA Order 5700.6 A1 was used to conduct the review by interview with the contractor.

No recommendations for improvement were made as the grant is progressing satisfactorily. In fact, the on site review and discussions with MDEQ Financial Manager indicated that MDEQ has more stringent reporting requirements of its contractors than EPA. DEQ has also retained another contractor besides the contractor EPA is using via the IAG that EPA has in place with Department of Transportation. Tetra Tech, EMI, DEQ's on site contractor at Troy, is becoming proficient in the appropriate sampling techniques established at the Libby Asbestos NPL site. Since the sampling techniques established at Libby are unique to this contaminant of concern, the experience that Tetra Tech, EMI gets through management of the DEQ subagreement should bring down overall costs as competition drives prices down since contractors have to become more efficient in their management of site costs. It is in the interest of EPA to continue to have MDEQ provide this service to EPA.

Results of Review with Recommendations (success and findings)

- Address all of the core areas that apply to the agreement as defined in EPA Order 5700.6.

1) Ensuring equipment purchased under the award is properly managed and accounted for.

Equipment has been and will be purchased under this grant. Unclear from summary reports what type of equipment has been purchased since the summary reports provided in the quarterly reports only include macro-invoices (i.e, \$300 Home Depot) and not detailed summary breakdown of each purchase.

2) Compare the recipient's workplan/application to actual progress under the award.

Workplan milestones are largely met thus far and progress is satisfactory. First field investigation is completed and second field investigation is ready for next year pending availability of federal funding.

3) Examine the award's finances to ensure funds are available to complete the project.

Funds are inadequate to complete the tasks identified in the cooperative agreement for the period of negotiated performance given that the negotiated ceiling is over \$3 million more than approved budget. This is because EPA receives insufficient funding in the yearly appropriation process to fully fund.

4) Ensure all programmatic terms and conditions are met.

Quarterly reports are up to date and in a format appropriate to USEPA. However, FY2007 2nd, 3rd, and 4th quarter reports were received by the Agency on December 7, 2007 – one week prior to the audit. MDEQ is down a staff person who would perform compilation of these reports. The position will be backfilled and it is hoped that future quarterly reports will be submitted in a timely manner. Although the on site evaluation uncovered nothing irregular, it is anticipated that submission of timely quarterly reports in the future will allow for better scrutiny of costs. It was discussed with MDEQ that quarterly reports need to be submitted in a timely manner and they will attempt to provide the reports within 30 days of the end of the quarter in the future.

The Terms and Conditions of the Cooperative Agreement do not require any progress updates other than reporting requirements in accordance with 40

C.F.R. Section 31.40. Project Officer never receives MDEQ's Task Orders that have been issued to Tetra Tech, EMI so P.O. was uncertain whether the Task Orders were consistent with scope of the assistance agreement prior to the on site evaluation. However, as part of the on-site evaluation P.O. reviewed the contract, Task Orders and a subset of invoices. The level of detail provided by MDEQ's contractors is in greater detail than what EPA requests of its contractors.

Current Project Officer also receives no updates from the Libby Site Team so the current P.O. is unaware of site activities, issues and progress. Therefore, it is recommended that P.O. responsibilities be moved to an RPM who works on the Libby Team. It is also recommended that MDEQ submit monthly progress reports to the P.O. during field investigations so that there is a record in the file of what MDEQ is doing in the field.

Current Project Officer is also unaware if personnel responsible for implementing the QMP/QAPP are aware of the QA/QC requirements or whether sufficient audits have been done to ensure appropriateness of QA/QC. Again, changing P.O. responsibilities to a Libby Site Team member would ensure that appropriate QA/QC requirements are being adhered to in the field.

Current Project Officer is also unaware what type of in-kind service EPA has provided. EPA has worked in the field at Troy and staffs the on-site laboratory at Troy. Is this considered in-kind services that would otherwise had to have been procured by MDEQ?

All other terms and conditions have been met thus far.

5) Ensure all programmatic statutory and regulatory requirements are met.

All grant requirements have been met to date.

No recommendations to the Grants Management Office or recipient were made. Contractor documentation is very detailed and exceeds expectations for this grant. In fact during the review of the invoices associated with the funding EPA provides DEQ in the Libby Troy assistance agreement, the P.O. was struck by the level of detail DEQ goes into to ensure that federal funds are expended appropriately. There are lessons to be learned that should be incorporated by EPA.

Resolution Plan and Timing

Given the scrutiny of the Libby Asbestos NPL site, it is recommended that GMO conduct a formal audit of both the Troy Cooperative Agreement and

the Department of Transportation (Volpe Center) IAG that USEPA manages before the Office of Inspector General does. Libby Asbestos is a high profile site that is receiving national attention because of the contaminant of concern and because of Congressional inquiries. Although there was no serious mismanagement of EPA funds uncovered during the on site evaluation of DEQ's assistance agreement, there are many practices that MDEQ has in place that can be transferred. An auditor also has much more experience in conducting these evaluations and they can provide valuable insight on how to better manage these assistance agreements.

EPA Contact

Roger Hoogerheide,
(406) 457-5031
Hoogerheide.roger@epa.gov

Appendix (optional)

Review Dates: December 14, 2005
Organization: US EPA Region 8, Montana Operations
Sources (EPA): V97801901
Period Covered: 10/01/2004 – 9/30/2008
Grant amount as of 12/14/2007:
\$2.447 million approved budget
\$1.763 million expended as of date of review
\$6.0917 million approved ceiling

MDEQ has submitted an incremental request for \$500,000 which was submitted to the Agency on 12/7/2007. Amendment is pending transfer of P.O. and grants specialist responsibilities to Denver.

Grantee Activity Report

Grantee: Montana Department of Environmental Quality (MDEQ)

Program: Superfund

Assistant ID Number: V97801901

Period Covered: 10/01/2004 - 9/30/2008

ACTIVITY INFORMATION

Activity Type: On site evaluation of contractor invoices that support MDEQ lead Superfund Field Investigation @ the Libby Asbestos OU07 NPL site.

Activity Date: 12/14/2007

Report Date: 12/14/2007

Closed Date: Cooperative Agreement is still open

Report Attachment: Programmatic on site evaluation is attached

FINDINGS

- ☐ None
- ☐ Possible Conflict of Interest
- ☐ Possible Lobbying
- ☐ No Accounting Manual
- ☐ No Written Procurement Procedures
- ☐ No Procurement Conflict of Interest Policy
- ☐ No Cost or Price Analysis
- ☐ Commingling of Funds
- ☐ Unallowable Costs
- ☐ Payroll Problems
- ☐ No Travel Policy
- ☐ Undocumented Cost Share
- ☐ Internal Controls Missing
- ☒ Progress Reports
- ☐ Program Income
- ☐ Quality Assurance
- ☐ A-133 Audit
- ☐ Noncompliance with Terms and Conditions
- ☐ Property Management Findings

- ☐ Indirect Cost Issues
- ☐ Labor Distribution Findings
- ☐ Cash Management
- ☐ Sub-recipient/Contract Monitoring
- X Other/please explain:

Given the scrutiny of the Libby Asbestos NPL site, it is recommended that GMO conduct a formal audit of both the Troy Cooperative Agreement and the Department of Transportation IAG that USEPA manages before the Office of Inspector General does. There are many practices that MDEQ has in place that could be transferred. An auditor also has much more experience in conducting these evaluations and they could provide valuable insight on how to better manage these assistance agreements.

Grantee Activity Report

Program Synopsis

1. Is payment history consistent with progress to date? **Yes**
Explanation: P.O. was only able to review summary budget tables attached to quarterly reports and the invoices attached to the Task Orders. Everything seems up to date and in order
2. Is the work under the agreement on schedule? **Yes**
Explanation: First field investigation is completed and second field investigation is ready for next year pending availability of federal funding.
3. Is actual work being performed within the scope of the recipient's work plan? **Yes**
Explanation: No explanation required
4. Are the recipient's staff and facilities appropriate to handle the work under the agreement? **Yes**
Explanation: No explanation required
5. Are the products/progress reports submitted on time? **No**
Explanation: FY2007 2nd, 3rd and 4th Qtr Reports were submitted to EPA on December 5, 2007 prior to the on-site evaluation.
6. Are the products/progress reports acceptable? **Yes**
Explanation: Quarterly reports are up to date and in a format appropriate to

USEPA.

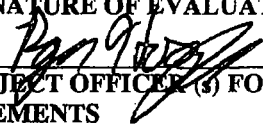
7. Is the recipient making adequate progress in achieving outcomes and outputs and associated milestones in the assistance agreement work plan? **No**
Explanation: **Cooperative Agreement was put in place in FY2004 when outputs and outcomes were not required. A formal amendment was completed in February 2007 at which time outputs and outcomes should have been negotiated. However, they were not. It is recommended that outputs and outcomes be negotiated if another amendment is submitted.**
8. If the recipient is experiencing significant problems meeting agreed-up outcomes and outputs, has the recipient been required to develop and implement a corrective action plan? **N/A**
Explanation: **See explanation for Question 7.**
9. Has the recipient complied with the programmatic terms and conditions of the award? **Yes**
Explanation: **No explanation required**
10. Did the recipient purchase equipment as planned in the agreement? **Yes**
Explanation: **Unclear from summary reports what type of equipment has been purchased since the summary reports provided in the quarterly reports only include macro-invoices and not detailed summary breakdown**
11. Has the equipment been used as planned in the agreement?
Explanation: **See comment for Question 10.**

EPA Contact Information

Roger Hoogerheide
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EPA PROJECT OFFICER POST-AWARD EVALUATION PROTOCOL

BACKGROUND INFORMATION

1. DATE 12/14/2007	2. SIGNATURE OF EVALUATOR 							
3. OFFICE Region 8 Montana Office Superfund Program	4. PROJECT OFFICER (s) FOR REVIEWED ASSISTANCE AGREEMENTS Roger Hoogerheide							
5. TYPE OF EVALUATION: Evaluative On-Site Visit <input checked="" type="checkbox"/> Off-site Evaluation <input type="checkbox"/> Follow-up <input type="checkbox"/> Joint Site Review <input type="checkbox"/> (Note: Please provide the name of the co-evaluator and office in this block.)								
6. AWARD INFORMATION Grant <input type="checkbox"/> Cooperative <input checked="" type="checkbox"/> Agreement RECIPIENT MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY		7. PROJECT PERIOD <table border="1"> <thead> <tr> <th>BEGINNING</th> <th>ENDING</th> </tr> </thead> <tbody> <tr> <td>10/01/2004</td> <td>9/30/2008</td> </tr> <tr> <td> </td> <td> </td> </tr> </tbody> </table>	BEGINNING	ENDING	10/01/2004	9/30/2008		
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AWARD AMOUNT EPA share: As of 12/14/2007: \$2.447 million approved budget \$6.0917 million approved ceiling MDEQ has submitted an incremental request for \$500,000 which was submitted to the Agency on 12/7/2007 Recipient share/Match: N/A Other: N/A Total: As of 12/14/2007: \$2.447 million approved budget \$6.0917 million approved ceiling		PRE-AWARD COSTS Did the recipient incur costs prior to receiving the award? Did they charge it to the agreement? If so, were the costs included in the assistance application or approved by EPA? (For more information on pre-award costs, please review: 1) GPI-00-02 (a) entitled, "Clarification on GPI 00-02 Modification to Policy Guidance for 40 CFR Part 31 Pre-Award Costs," (May 3, 2000); 2) 40 CFR 30.25(f)(1) or 40 CFR 30.28 and; 3) 40 CFR 31.23 N/A						
7. SCOPE OF REVIEW Please summarize the purpose of your review (e.g., To observe project activities, review six grants under the State's Air 103 program). Please include the list of issues that will be raised for resolution during the review (e.g., Need response on why the recipient spent half of the grant award and hasn't produced a literature review). Remedial Project Manager responsibilities for Libby Asbestos OU07 are assigned to an RPM in Denver, CO not the Montana Office in Helena, MT. Project Officer responsibilities and Grant Specialist responsibilities will be reassigned to the Denver office since the Montana Office P.O. is receiving insufficient technical information from the Libby Site Team to be an effective P.O. As part of the transfer, current Project Officer is conducting a post award evaluation prior to transferring P.O. responsibilities to ensure Cooperative Agreement is in order.								

EPA SAMPLE PROJECT OFFICER POST-AWARD EVALUATION PROTOCOL

*To prevent potential problems with the Paperwork Reduction Act, Project Officers should not
Give this protocol to the recipient or direct the issues as questions to the recipient.*

1. FINANCIAL

Project Officers are responsible for:

- Analyzing the budget information in the reports by reviewing the payment history (using recipient progress reports, Financial Status Reports, or IFMS reports) and comparing actual amounts spent against the planned budget in the workplan.
- Providing rebudget approval to the Grants Specialist on the recipient's request to rebudget grant funds or on other actions which require prior approval from EPA.

2. TECHNICAL

Project Officers are responsible for:

- Monitoring all activities and the recipient's progress on the project.
- Providing comments to the recipient on the progress reports and other work products.
- Apprising program staff who are responsible for parts of the project/program on issues which need resolution.
- Recommending actions that require the attention of the Grants Management Office, the Office of General (or Regional) Counsel and the Quality Assurance/Quality Control contact.

1. The PO should determine if...

	Yes	No
...the payment history is consistent with the progress to date.	X	<input type="checkbox"/>

...additional funds are required to meet the objectives.	X	<input type="checkbox"/>
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2. The PO should determine if...

	Yes	No
...the work under the agreement is on schedule.	x	<input type="checkbox"/>

...work being performed is within the scope of the workplan	X	<input type="checkbox"/>
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...staff and facilities are appropriate to handle the work under the agreement.	X	<input type="checkbox"/>
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...products/progress reports are being submitted on time and are acceptable. Acceptable but not timely	<input type="checkbox"/>	X
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EPA SAMPLE PROJECT OFFICER POST-AWARD EVALUATION PROTOCOL

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3. AGREEMENT-SPECIFIC

Project Officers are responsible for:

- Reviewing progress reports and other work products to assure that the recipient is complying with the applicable regulations and the programmatic terms and conditions in the agreement.
- Notifying the GMO if the recipient is not complying with the terms and conditions of the agreement.
- Providing technical assistance to recipients when requested or required by the programmatic terms and conditions of the award.
- Assisting the recipient, where appropriate, with the development of a plan to conduct subsequent portions of the project.

NOTE: Select those areas which apply to your specific agreement.

Equipment
Property
Travel
Conferences
Program Income
Subagreements
In-Kind Services
Quality Assurance/Quality Control
Human/Animal Subjects

3. As appropriate, the PO should determine if...

PROGRAM REGULATIONS/ TERMS AND CONDITIONS

Not Applicable ☐

	Yes	No
...the recipient has complied with the agreement's relevant programmatic regulations and/or programmatic terms and conditions.	X	<input type="checkbox"/>

EQUIPMENT

Not Applicable ☐

	Yes	No
...the recipient purchased equipment as planned in the agreement.	X	<input type="checkbox"/>

	Yes	No
...the equipment has been used as planned in the agreement.	X	<input type="checkbox"/>

PROPERTY

Not Applicable ☐

	Yes	No
...the recipient purchased and used real property (e.g., land, buildings) as prescribed in the agreement.	<input type="checkbox"/>	X

TRAVEL

Not Applicable ☐

	Yes	No
...authorized travel has been carried out appropriately.	X	<input type="checkbox"/>

EPA SAMPLE PROJECT OFFICER POST-AWARD EVALUATION PROTOCOL

To prevent potential problems with the Paperwork Reduction Act, Project Officers should not Give this protocol to the recipient or direct the issues as questions to the recipient.

<u>AGREEMENT-SPECIFIC, cont'd.</u>	<u>CONFERENCES</u>	<i>Not Applicable</i>	<i>X</i>
Although it is not required, Project Officers should:	...the conference complied with the Best Practices Guide for Conferences.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
<ul style="list-style-type: none"> Share relevant information from the November 1998 Best Practices Guide for Conferences (Appendix I, EPA Project Officer Manual) and the Office of General Counsel's Printing Guidance (June 14, 2000) with the recipient. 	<u>SUBAGREEMENTS</u>	<i>Not Applicable</i>	<input type="checkbox"/>
<ul style="list-style-type: none"> Work with the recipient to ensure that the work under a subagreement (e.g., contracts, subgrants, memoranda of understanding, and, if applicable, intergovernmental agreements under the assistance agreement) does not go beyond the scope of the assistance agreement. 	...subagreement's are consistent with the approved workplan.	Yes <i>X</i>	No <input type="checkbox"/>
NOTE: Project Officers must work with the recipient to resolve program-income related issues on agreements that generate program income.	...the recipient reprogrammed funds to contracting.	<i>X</i>	<input type="checkbox"/>
	...the subcontract's Statement of Work is consistent with the scope of the assistance agreement.		<input type="checkbox"/>
	...subagreement costs charged are eligible and allocable.	<input type="checkbox"/>	<input type="checkbox"/>
	<u>PROGRAM INCOME</u>	<i>Not Applicable</i>	<i>X</i>
	...the project generated unanticipated income.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
	<u>HUMAN SUBJECTS</u>	<i>Not Applicable</i>	<i>X</i>
	...the recipient has followed the regulations under 40 CFR Part 26.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
<p align="center"><u>EPA SAMPLE PROJECT OFFICER POST-AWARD EVALUATION PROTOCOL</u> <i>To prevent potential problems with the Paperwork Reduction Act, Project Officers should not Give this protocol to the recipient or direct the issues as questions to the recipient.</i></p>			

<u>AGREEMENT-SPECIFIC, cont'd.</u>	QUALITY ASSURANCE/ QUALITY CONTROL																											
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Robert Horvath

AGREEMENT NUMBER **V97801901-5**